

Amendments to the Drawings

Please replace Fig(s). 5 contained in drawing sheet(s) 5 with the attached replacement figure(s). Reference numeral 222 has been added to the top right corner of Figure 5 to indicate process 222.

REMARKS

Claims 1-35 were previously pending in this application. Claims 1, 9, 12, 18, 19, 25 and 29 have been amended. As a result, claims 1-35 are pending for examination with claims 1, 12, and 25 being independent claims. No new matter has been added.

Examiner Interview

Applicant wishes to thank Examiner Lee and Nguyen for the courtesies extended during the Interview of March 7, 2007 with Applicant's representative. In the Interview, Applicant and Examiner discussed the patentability of claims over Itkis, et al., U.S. Publication No. US 2003/0171986 A1, (hereinafter Itkis, et al.). In particular, Applicant's representatives proposed amendments to traverse the rejections under 35 U.S.C. §101 and to make the claims more clear as discussed further below. In addition, Applicant's representatives discussed the novelty of the claims over Itkis, namely, that Itkis discloses only one method of entry into a game of chance, whereas, independent claim 1 is directed to a primary method of entry and, as an alternative to the primary method of entry, an alternative method of entry (AMOE) into a game. In response to this interview, Applicant has amended the independent claims to include substantially the limitations discussed during the interview.

The Examiner agreed in principle that the proposed amendments would traverse the rejections under §101. Further, the Examiner agreed in principle that the claims distinguished over Itkis, and that the Examiner would review the amended claims in light of the cited art. Applicant respectfully submits the following remarks and amendments for consideration.

Double Patenting Rejection

In paragraphs 18 and 19 of the Office Action, claims 1, 3-8, 11 -19, 24-28, and 31 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 4-9, 15-22, 25-29, and 32, respectively, of copending Application Serial No. 11,049,399. However, the Office Action stated that a timely filed Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c) may be used to overcome this rejection. Without acceding to the correctness of this rejection, enclosed herewith is a Terminal Disclaimer with respect to U.S. Application Serial No. 11/049,399 in compliance with 37 C.F.R. 1.321(c) to

overcome this rejection. In view of this Terminal Disclaimer, the provisionally rejected claims are believed to be in allowable condition.

Rejections Under 35 U.S.C. §101

The Office Action rejected claims 1-35 under 35 U.S.C. §101 as being directed to non-statutory subject matter. As discussed above, in response to this rejection, Applicant has amended claims 1, 12, and 25 in accordance with the discussions held with the Examiner on March 7, 2007. Applicant respectfully submits that the claims, as amended, satisfy the requirements of §101. Accordingly, withdrawal of this rejection is respectfully requested.

Rejection under 35 U.S.C §112

The Office Action rejected claims 3, 21 and 32 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. 35 U.S.C. §112, first paragraph provides:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The Office Action alleges that the “specification does not provide full disclosure of how to provide an alternative method of entry (AMOE) for a game of skill.” (Office Action, p. 6). Examiner has improperly limited the scope of the disclosure based on the games of bingo and keno, in order to reach the conclusion that the “disclosed game is a game of chance.” (Office Action, p. 6). The disclosure contains no language that would support such a limitation. The application discloses in one embodiment a method for conducting a game, the method comprising acts of providing for an entry of at least one player in the game, and providing, to the at least one player, an alternative method of entry (AMOE) for the game. (Application, p5. lines 6 – 9). According to one embodiment, the game is a wagering game of chance. According to another aspect of the invention, the game is a wagering game of skill. Examiner appears to be limiting the scope of the Applicant’s disclosure based on the language “[o]ne aspect of the present invention relates to a new game that includes elements of the well-known wagering games of chance known as bingo and keno.” (Application, p. 15, lines 17-18). The new game is

not limited to bingo and keno, rather, the new game incorporates elements of those games. Further the application does not state “[t]he skill-level of the player of the disclosed game does [not] affect the outcome of the disclosed game,” as alleged in the Office Action. (See p. 6, para. 9). Thus the rejection, limiting the Applicant’s disclosure to a game of chance based on the well-known games of bingo and keno is improper. Accordingly, Applicant respectfully submits that the rejection should be withdrawn.

Claims 9 and 29 were rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 9 and 29 have been amended in accordance with the Examiner’s suggestion. Accordingly, withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. §102

The Office Action rejected claims 1, 2, 4-10, 12-14, 16-20, 22, 23, 25-31, 33, and 34 under 35 U.S.C. §102(e) as being anticipated by Itkis, et al., U.S. Publication No. US 2003/0171986 A1, (hereinafter Itkis, et al.).

Itkis, et al. is directed to a linked promotional bingo game. The invention attempts to create an appearance of a live linked bingo game being conducted simultaneously in a number of participating commercial establishments. (Para. 0013). In each of the participating establishments, a self-service vending kiosk prints and issues free game tickets imprinted with bingo cards to patrons who swipe their player-tracking cards through the kiosk’s magnetic card reader in order to obtain a free game ticket. (Para. 0013). The game of Itkis is designed to provide commercial establishments, such as bars, pubs, and clubs with an effective promotional tool capable of attracting patrons while extending patrons’ visits. (Para. 0006).

Itkis teaches that in an a majority of jurisdictions, bars and similar establishments are legally precluded from selling bingo cards to patrons. (Para. 0003). Itkis describes an object of the invention is to provide such games in a legally permissible manner. (Para. 0009). Itkis further describes another object of the present invention is to attract patrons by offering them free promotional games with large prizes. (Para. 0007). Another object disclosed is to provide funding for such free promotional games from commercial sources. (Para. 0010). Itkis teaches that the objects of the present invention are achieved by conducting linked large-prize bingo

games simultaneously *at no cost* to patrons of the establishments and in compliance with free sweepstakes laws and regulations. (Para. 0012, emphasis supplied).

In summary, and as discussed with the Examiner, Itkis, et al. discloses only a free method of entry into a linked promotional bingo game, i.e. the free method of entry whereby a participant obtains a ticket to play from a kiosk. (Please see e.g. Para. 0013; and Para. 0020). In addition, Itkis teaches that the free method of entry is the only method that satisfies the objects of the invention, which include deriving sources of funding for the free game. (Please see Para. 0012).

Claim 1, as amended recites a method for conducting a game. The method comprises acts of providing for a primary method of entry of at least one player in the game, providing, to the at least one player, an alternative method of entry (AMOE) to the game, and executing the game for the at least one player.

Itkis, et al. does not anticipate claim 1, as amended. In particular, Itkis, et al. does not disclose “providing for a primary method of entry of at least one player in the game” and “providing, to the at least one player, an alternative method of entry (AMOE) to the game,” as recited in claim 1, as amended. As discussed above, Itkis, et al. describes a free method of entry into a linked promotional bingo game. (Please see Para. 0013 and 0020). Itkis, et al. cannot disclose a primary method of entry and an alternative method of entry where it only provides for a free method of entry. Therefore, Itkis, et al. does not teach or suggest a method including acts of “providing for a primary method of entry of at least one player in the game” and “providing, to the at least one player, an alternative method of entry (AMOE) to the game,” as recited in claim 1, as amended. Rather Itkis, et al. provides only for one method of entry, where the method of entry is free.

Accordingly withdrawal of this rejection is respectfully requested. Claims 2, and 4-10 depend from claim 1 and are allowable for at least the same reasons.

Independent Claim 12

Claim 12, as amended, recites a wagering game The wagering game has a primary method of entry and an alternative method of entry (AMOE), wherein a game player plays the wagering game through the use of the alternative method of entry (AMOE).

Itkis does not anticipate claim 12, as amended. In particular, Itkis does not disclose “having a primary method of entry and an alternative method of entry (AMOE),” as recited in claim 12, as amended.

As discussed above with reference to independent claim 1, Itkis discloses a game with a free method of entry. (Please see e.g. Para. 0013; and Para. 0020). Itkis further teaches that the free method of entry is the only method that satisfies the objects of the invention, which includes satisfying free sweepstakes gaming law and deriving sources of funding for the free game. (Please see Para. 0012). Itkis does not teach or suggest a wagering game “having a primary method of entry and an alternative method of entry (AMOE),” as recited in claim 12, as amended.

Accordingly withdrawal of this rejection is respectfully requested. Claims 13-14, 16-20, 22, and 23 depend from claim 12 and are allowable for at least the same reasons.

Independent Claim 25

Claim 25, as amended, recites a computer-readable medium having computer-readable signals stored thereon that define instructions that, as a result of being executed by a computer, instruct the computer to perform a method for conducting a game. The method comprises acts of providing for a primary method of entry of at least one player in the game, providing, to the at least one player, an alternative method of entry (AMOE) to the game, and executing the game for the at least one player.

Itkis does not anticipate claim 25, as amended. In particular, Itkis does not disclose “providing for a primary method of entry of at least one player in the game, providing, to the at least one player, an alternative method of entry (AMOE) to the game,” as recited in claim 25, as amended.

As discussed above with reference to independent claim 1, Itkis discloses a game with a free method of entry. (Please see e.g. Para. 0013; and Para. 0020). Itkis further teaches that the free method of entry is the only method that satisfies the objects of the invention, which includes satisfying free sweepstakes gaming law and deriving sources of funding for the free game. (Please see Para. 0012). Itkis does not teach or suggest a wagering game “having a primary method of entry and an alternative method of entry (AMOE),” as recited in claim 12 as amended.

Accordingly withdrawal of this rejection is respectfully requested. Claims 26-31, 33, and 34 depend from independent claim 25 and are allowable for at least the same reasons.

Rejections Under 35 U.S.C. §103

The Office Action rejected dependent claims 3, 21, and 32 as understood, under 35 U.S.C. §103(a) as being unpatentable over Itkis, et al. in view of Langan, U.S. Patent No. 5,782,470, (hereinafter Langan). As discussed above, the dependent claims rejected under 35 U.S.C. §103 are allowable for at least the same reasons as the independent claims from which they depend. Further, Langan does not provide the missing limitations as discussed above with respect to the independent claims.

Langan is directed to a sweepstakes-type game in which pre-printed game cards are distributed to contestants which permit the contestants to predict the performance of selected players prior to an athletic event and which will reveal winning contestants and associated prizes based upon the geometric arrangement and/or point value of correct positions. (Abstract). The games cards may also be made available for sale or given away in commercial outlets at which games, novelty items, or other sweepstakes-type game cards are available. (Col. 4, lines 27-30).

In summary, the sweepstakes-type game of Langan may be offered as a pay for entry game or a free entry game. Langan does not teach or suggest providing the two methods of entry in one game. (Please see Col 4, lines 27-30). Therefore Langan does not supply the missing limitations as discussed above with respect to the independent claims.

Furthermore, one skilled in the art would not be motivated to combine the teachings of Itkis and Langan as suggested by the Examiner. Itkis teaches that an object is to attract patrons by offering them *free promotional games* with large prizes. (Itkis, Para. 0007). Another object disclosed, is to provide funding for such free promotional games from commercial sources. (Para. 0010). Itkis teaches that the objects of Itkis are achieved by conducting linked large-prize bingo games simultaneously *at no cost* to patrons of the establishments and in compliance with free sweepstakes laws and regulations. (Please see, for example para. 0012, emphasis provided). Modifying Itkis to include the game of Langan with payment type entries would violate the teachings of Itkis and would therefore be improper.

Even if one were to combined Itkis and Langan as suggested by the Examiner, the result would not provide the missing limitations as discussed above with respect to the independent

claims, as amended. If one were to “replace the bingo game of Itkis, et al. with the wagering game of skill of Langan,” as suggested by the Examiner (Office Action, p 14. para. 16), the result would be a game of skill with a free method of entry. Such a game does not render obvious that which is recited in the independent claims.

Further, dependent claims 11, 15, 24, and 35 were rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis, et al. in view of Fioretti, U.S. Patent No. 5,351,970, (hereinafter Fioretti). As discussed above, these dependent claims rejected under 35 U.S.C. §103 are allowable for at least the same reasons as the independent claims from which they depend. Further, Fioretti does not provide the missing limitations as discussed above with respect to the independent claims.

Fioretti is directed to methods and apparatus (system) for enabling bingo (and similar games of chance, referred to hereinafter collectively as “bingo”) to be played in real time at locations which are remote (geographically separated in a physical sense) from the location where the numbers (or more generally symbols) used to play a bingo type game are being selected. (Abstract). Fioretti describes an object of the invention to provide techniques and equipment used for the remote on-line point of sale generation of gaming tickets, and for keeping track of all arrays sold. (Please see Col 6, lines 42-58).

In summary, Fioretti describes methods and apparatus directed to conducting remote bingo games where participants are providing a pay method for entering the game. Therefore Fioretti does not supply the missing limitations as discussed above with respect to the independent claims.

In addition, one skilled in the art would not be motivated to combine the teachings of Itkis and Fioretti as suggested by the Examiner. Itkis teaches that an object of its invention is to attract patrons by offering them *free promotional games* with large prizes. (Please see Itkis, Para. 0007). Another object disclosed is to provide funding for such free promotional games from commercial sources. (Para. 0010). Itkis teaches that the objects of the present invention are achieved by conducting linked large-prize bingo games simultaneously *at no cost* to patrons of the establishments and in compliance with free sweepstakes laws and regulations. (Para. 0012, emphasis added). Modifying Itkis to include the payment method of entry of Fioretti would violate the teachings of Itkis and would therefore be improper.

There is no teaching or suggestion in either Itkis or Fioretti to add a method of entry to the disclosed games, therefore, the Examiners suggestion that Itkis and Fioretti could be combined to teach a first method of entry, and a second alternative method of entry is improper and is the result of hindsight application of the Applicant's disclosure.

Accordingly, withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

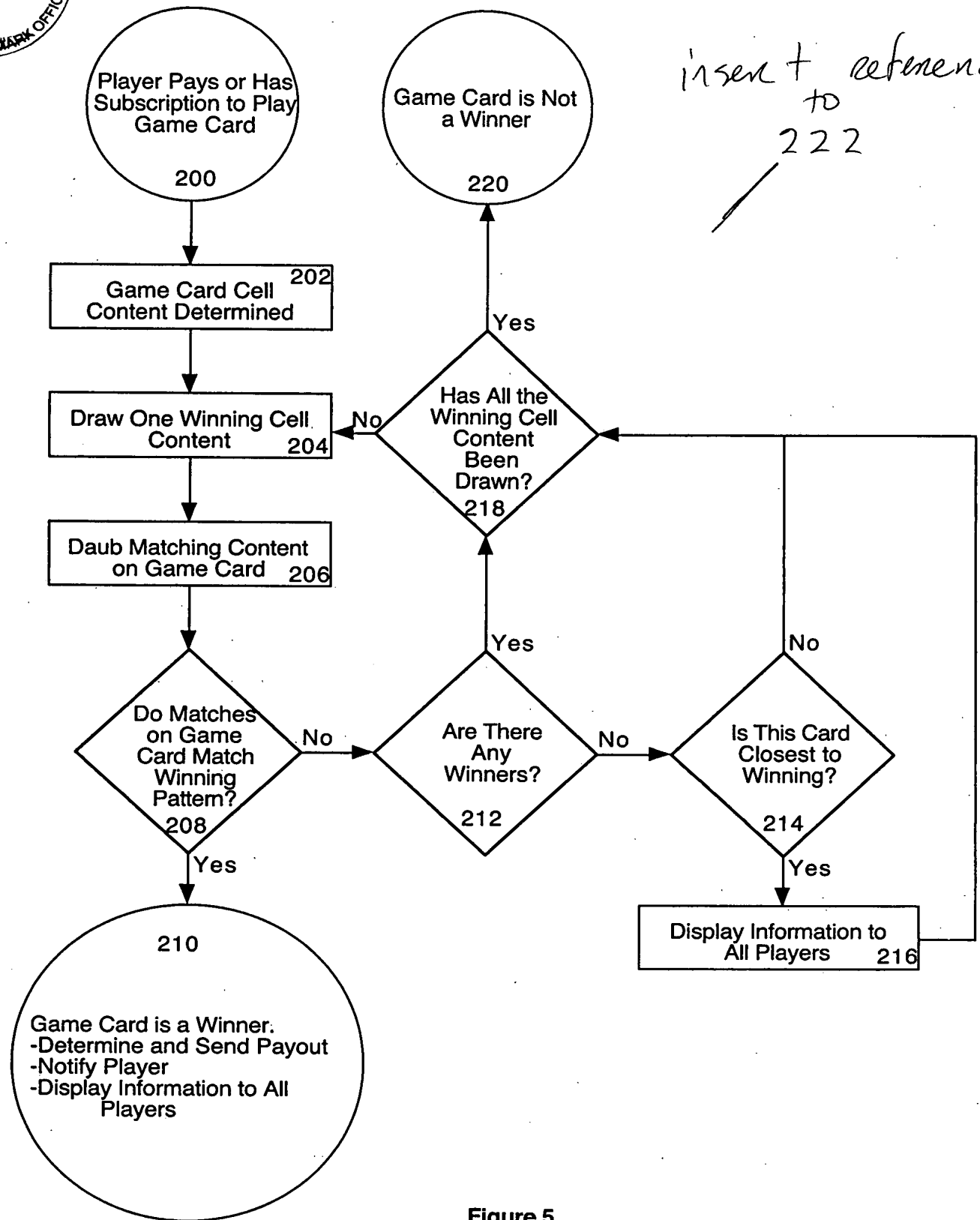
If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50/2762.

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Figure 5